

To: National Organic Standards Board

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Re: Comments on the Interim Final Report of the Aquaculture Working Group

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The Organic Foods Production Act of 1990 (OFPA) is the statutory foundation for the certification of organic agricultural commodities. The USDA National Organic Program (NOP) has done a commendable job of developing regulations to enforce OFPA with their Final Rule. But the Final Rule does not address the organic production of aquatic animals. In 2000, an Aquatic Animal Task Force began work on determining how such production could meet the guideline presented in OFPA (I served on that Task Force and at that time was a member of the NOSB). The Task Force presented its final report to the NOP and NOSB in June of 2001.

In 2001, the Task Force concluded that operations that capture wild aquatic animals do not reflect the degree of producer management, continuous oversight and discretionary decision-making that are characteristic of organic systems. Accordingly, the task force recommended that the National Organic Standards Board and NOP not develop organic standards for wild caught fish. On the other hand, the 2001 Task Force recommended that aquaculture systems which raise aquatic species in captivity could operate in compliance with OFPA, if and when specific standards are developed to regulate such production systems.

A new Aquaculture Working Group was created in 2005 and presented its Interim Final Report in the winter of 2006. I would like to comment on some of the strengths and potential weaknesses of the proposed regulation. The livestock management requirements established in the OFPA are presented in sections that deal with the applicability, qualities of the site, the origin of the livestock, feed ration, living conditions, health care, and identification. I will present my comments arranged by these sections.

First, I want to stress that NOP Final Rule is a practice based regulation, as organic standards have historically been in the organic community before the NOP and should continue to be so. The use of the organic label on aquatic products should be based on practices implemented by the producer that take place during the production of a product, and qualities of the site where production takes place. The OFPA mandates this.

Regulations that describe practices used to produce organic aquatic livestock should meet the mandates in OFPA rather than trying to reinterpret OFPA or rewrite OFPA to meet present day production practices. The new Aquaculture Working Group has done a good job of recognizing this in their Interim Final Report released in the winter of 2006.

I. Applicability

The first Aquatic Animal Task Force noted that by including "fish used for food" in the definition of livestock, the OFPA requires that any fish used for food to be labeled as organic must be raised in accordance with NOP standards. Therefore, any producer labeling a fish as organically produced must comply with all applicable requirements and restrictions for livestock production in the OFPA, and the NOSB is responsible for advising the Secretary on standards for the production and handling of fish. To clarify the meaning of the term "fish", the NOP developed the term "aquatic animals" to refer to finfish, shellfish and other aquatic invertebrates used for food either propagated in a selected, controlled environment (aquaculture) or taken from free ranging marine or fresh water populations (wild capture).

II. Designation of site

In Sections 2107 and 2114 OFPA clearly mandates that the area in which organic products are produced have defined boundaries. We believe this is important and the Interim Final Report could do a better job to state this clearly. This is important because in order that the producer take responsibility for the feed the livestock eat, the living conditions of the animals, the health care provided for the animals and the environmental impact of the production system it has to be known where the animals are. It would be impossible to assess the impact of the surrounding environment on the organic status of the livestock, nor the impact of the production system on the surrounding environment, if the production site is not defined.

I suggest that Section 205.250 of the Interim Final Report be modified so that the first sentence of 205.250 (2) reads as follows:

205.250 (2) An organic plan for operation of an aquaculture facility shall designate the area of operation. Aquaculture facilities shall be designed.....

III. Environmental Impact

1. In Section 2114 and others the OFPA mandates that the organic production system is not destructive to the environment. The Interim Final Report recognizes this and addresses environmental contamination in a number of different sections. However, we are concerned about the word "minimize" in Section 205.250 (2) where it talks about the design of a facility with respect to the release of nutrients and wastes into the environment and it says, "...minimize the release of nutrient and wastes into the

environment".

We would hope that all, not only the organic systems, are designed to minimize this release. I would hope that an organic aquaculture system be held to the same higher standard as any other organic livestock system and meet the NOP standard presented in the Final Rule in Section 205.239 (C) where it states, "The producer of an organic livestock operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms and optimizes recycling of nutrients".

2. Section 205.255 (f) in the Interim Final Report sounds very strong and I am pleased to see the implication that a site is clearly delineated and that an aim of the regulation is to protect that site from environmental degradation. I do have the same problem with the use of the word "minimize" as I explain in number one above, but the rest of the paragraph seems to go beyond this. So, we suggest that "minimize" be changed to the NOP language "does not contribute to contamination..."

3. Section 205.255 (g) of the Interim Final Report requires a nutrient management plan for every organic aquaculture facility. Nutrient management has the greatest environmental consequence of the practices involved with aquaculture. The source of the nutrients entering the system (feed), and the end point of the nutrients leaving the system (uneaten feed, manure etc.) potentially could have great negative environmental impact. The Report includes practical options for managing nutrients. I want to stress that practices that recycle nutrients within the system and surrounding environment are key to minimizing impact both in the area of production and the site of the feed procurement. National organic standards should require that recycling of nutrients be documented in the farm plan.

IV. Origin of Livestock

The Interim Final Report recognizes that organically produced aquatic animals must be raised in a discrete population, similar to a herd of cattle or flock of poultry, that is brought under continuous organic management beginning very early in the animal's life. It allows for collection of slaughter stock from the wild, but only with regulations on age.

In addition, the Report discusses the environmental impact of collecting stock from natural populations. I do not think it is strong enough protection of the environment here. It is not as strong as the present Rule and OFPA. In section 205.251 of the Interim Final Report it talks about collecting broodstock from the natural environment and says, " that natural populations and the collected individuals are protected and that biodiversity in the ecosystem is supported". However, I would hope that any organic aquatic animal regulations are at least as strong as Section 205.207 in the Final Rule that says, "A wild crop must be harvested in a manner that ensures that such harvesting or gathering will not be destructive to the environment and will sustain the growth and production of the wild crop". The phrase "not be destructive" that is presently in the National Organic Program

Rule is much clearer than "biodiversity in the ecosystem is supported" that is suggested in the Report.

V. Livestock Feed

The OFPA mandates that producers must provide organically produced animals with a total feed ration composed of agricultural products that are organically produced. I am comfortable with the potential for this to occur in aquaculture systems that are in designated areas where a producer is responsible for feed that moves into or grows in the area. This is similar to terrestrial livestock that graze in designated areas under the management of a producer.

I also accept the exception in the NOP Final Rule that nonsynthetic substances and synthetic substances included on the National List may be fed as feed supplements and feed additives to balance a feed. But I think a clarification is needed as to what is a feed and what is a feed supplement or additive. OFPA is very clear that feed must be organic and so I strongly believe that the basic feed groups of protein, fat and carbohydrate must come from organic feed. OFPA does not provide for natural sources of feed. So, as I read OFPA, natural ingredients used as supplements must be limited to balancing specific nutritional needs, perhaps within these feed groups, but supplements may not be used to provide livestock with a significant portion of feed unless they are organic products.

The Interim Final Report is very fuzzy on this issue and offers two options that refer to the use of fish meal in the diet of aquatic animals. I support Option B that is presented. I do not believe that fish meal made from wild fish can be called organic (I reserve more specific comments on that subject for the time when the Wild Aquatic Animal Working Group releases their report).

At this time I want to stress that there must be a cap on the amount of wild fish meal and oil that is used because it is not organic and thus should not provide a significant portion of the feed of an organic animal. Furthermore, the harvesting of wild fish for the production of fish meal or oil has a tremendous impact on natural populations of herring and other fish. A certified organic product must be based on sustainable production practices and the harvest of wild fish for the production of fish meal is far from a sustainable practice. However, I believe a prudent use of fish meal and oil should be allowed. I believe that fish meal and fish oil should be allowed as feed supplements BUT allowed only if the fish meal and fish oil does not exceed 5 percent of the total feed ration.

VI. Livestock Health Care Practice Standard

I believe the Interim Final Report does a good job of explaining how producers must establish and maintain preventive health care practices including selection of appropriate

species, provision of a suitable feed ration, establishment of living conditions to allow for natural behaviors and stress reduction, and use of allowed medicines and vaccines as necessary.

VII. Livestock Living Conditions

As I state above, I believe that managed aquatic animals may be called organic only if they are raised within a secure, defined production system that accommodates the animals' health and natural behavior and minimizes the risk of escape. I believe the Report does a good job addressing the regulation that the producers must maintain healthy water conditions with respect to temperature, oxygen concentration, pH, and toxins including ammonia and carbon dioxide. The importance of protecting the natural gene pool from escaped livestock species cannot be over emphasized.

I believe that rather than "minimize" environmental impact, as now written in the Report, the regulation must require that producers maintain production systems, whether self-contained or located in open water, in a manner that does not contribute to the contamination of water or soil by nutrients, heavy metals, or pathogenic organisms. Producers should prioritize recycling of residual nutrients produced by the operation. Production systems located in open water must be sited and managed to avoid the potential for contact with prohibited substances including environmental pollution.

VIII. Identification

Any organic production system must require that producers maintain records sufficient to document the origin, feed ration, living conditions, and, as needed, health care practices applicable to each group of aquatic animals produced on their operation.